

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

CHARLES L. COLE,

Petitioner,

v.

Case No. 2:09-cv-213  
HON. R. ALLAN EDGAR

JEFFREY WOODS,

Respondent.

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**MEMORANDUM AND ORDER**

Petitioner Charles L. Cole, a Michigan state prisoner in the custody of the Michigan Department of Corrections, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. On June 24, 2011, Magistrate Judge Timothy P. Greeley submitted his report and recommendation. [Doc. No. 30]. It is recommended that the habeas petition be denied and dismissed with prejudice, and that a certificate of appealability be denied under 28 U.S.C. § 2253(c)(2).

Petitioner Cole has not timely filed any objections to the report and recommendation. The Clerk of the District Court mailed a copy of the report and recommendation to petitioner Cole at his last known address at the Kinross Correctional Facility. The envelope containing the report and recommendation has been returned to the Clerk of the District Court by the Michigan Department of Corrections as undeliverable with a notation that petitioner Cole has been “Paroled.” Petitioner Cole has failed to advise this Court of his new mailing address.

After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and

recommendation pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b). The Court concludes that the petition for writ of habeas corpus brought under 28 U.S.C. § 2254 is without merit. The habeas petition shall be **DENIED and DISMISSED WITH PREJUDICE**.

If petitioner Cole files a notice of appeal, it will be treated as an application for a certificate of appealability which shall be **DENIED** pursuant to 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b)(1); and *Slack v. McDaniel*, 529 U.S. 473, 484 (2000), for the same reasons expressed in the report and recommendation. With regard to each and every issue and claim raised in the habeas petition, the Court finds that petitioner Cole has not made a substantial showing of the denial of a federal constitutional right. Reasonable jurists could not find it debatable whether the habeas petition has been properly dismissed.

The Court **CERTIFIES** pursuant to 28 U.S.C. § 1915(3) and Fed. R. App. P. 24(a) that any appeal from the decision and judgment in this case would not be taken in good faith.

A separate judgment will enter.

SO ORDERED.

Dated: July 26, 2011.

/s/ R. Allan Edgar

R. ALLAN EDGAR  
UNITED STATES DISTRICT JUDGE